IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1004 OF 2006

Sunil Arjundas Basrani .. Petitioner.
Vs.
Lalchand Anandram
Nagdeo and Anr. .. Respondents.

WITH

CRIMINAL WRIT PETITION NO.1005 OF 2006

Sunil Arjundas Basrani .. Petitioner.
Vs.
Rekhabai Lalchand
Nagdeo and Anr. .. Respondents.

Shri Amit B.Borkar for the petitioners.
Mrs.M.H.Mhatre A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 7th JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. By the order, impugned in both the petitions, the learned Magistrate has allowed the applications filed in two separate complaints by the complainant under section 311 of the Code of Criminal Procedure. The complainant in both the applications had prayed for the permission to adduce evidence only in respect of proving the contents of the notices below the Exhibit '45' and '44' respectively. These identical orders in both the petitions have been challenged

mainly on the ground that the discretion under section 311 of the Code cannot be exercised at the stage of arguments and to allow the applicants to fill in the lacuna. It was further contended that the respondent had earlier also filed two applications under section 311 of the Code out of which one was allowed and the other was withdrawn and, therefore, the application ought not to have been allowed to fill in the lacuna. I perused the order as also the provisions of section 311 of the Code of Criminal Procedure. The earlier applications filed under section 311 and the application on which the impugned order was passed have no connection. In my opinion, the powers conferred on the court under section 311 are wide enough to allow such applications in the interest of justice at any stage of the trial. Such orders need not be interfered with by this Court in its writ jurisdiction under Article 227 of the Constitution of India. No prejudice will be caused to the petitioners and that they will have an opportunity to further cross-examine the witness. I do not find compelling reason or any abuse of process of law or any glaring injustice being done to the petitioners. The writ petitions, therefore, fail and are dismissed as such.

(D.B.Bhosale, J.)